



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

CENTRE FOR NEURO SKILLS
2658 MOUNT VERNON AVENUE
BAKERSFIELD CA 93306

DWC Claim #:
Injured Employee:
Date of Injury:
Employer Name:
Insurance Carrier #:

Respondent Name

INSURANCE CO OF THE STATE OF PA

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-11-1288-01

MFDR Date Received

December 20, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary as stated on the Table of Disputed Services: "Negotiated rate effective 2-1-04. Payments I the amount of \$487 Per Diem were received through 5-15-05. Requestor's amount billed is fair and reasonable for the services provided to patient, [injured employee]. These reasonable charges were agreed to by the carrier, and employer and under the agreement has been paid since 1994."

Amount in Dispute: \$8,610.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Requestor charged a fee of \$487 per day for its services and treatment of the Claimant. The services allegedly being provided and billed under CPT Code 97799 do not have an established Division maximum allowable reimbursement. Because there is not a maximum allowable reimbursement for the services, the amount to be reimbursed is the fair and reasonable amount for the services provided. However, and in order to determine the fair and reasonable amount, the Requestor is required to submit proper documentation." "Requestor did not provide proper supporting documentation, and the Respondent relied upon its own methodology to determine a fair and reasonable rate of reimbursement. Respondent conducted a survey of the metropolitan area in which the services were provided, including a specific bid from a competing provider, and as a result determined that the reimbursement rate of \$200 per day, was a fair and reasonable amount for medical services." "Requestor argued that they had a contract with Respondent which stated that a fee of \$487 would be paid for each day the claimant remained at Requestor's facility. However, Requestor has not provided any contract signed by Respondent. Additionally, please see the attached Affidavit of Cindy Gowing which confirms that Respondent has consistently maintained that it would continue to be responsible for the care and treatment of the Claimant as provided by the Texas Workers' Compensation Act and not due to any alleged and unseen contract." "Further, please see attached internal communication from Requestor admitting that there was no negotiated contract with Respondent regarding the fees for treatment of the Claimant." "Additionally, Requestor failed to preauthorize the medical services."

Response Submitted by: Downs Stanford, PC, 2001 Bryan Street, Suite 4000, Dallas, TX 75201

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
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April 1, 2010 – April 30, 2010	Assisted Living Services – CPT Code 97799	\$8,610.00	\$0.00
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FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets forth general provisions regarding dispute of medical bills.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. Texas Labor Code §408.027, titled *PAYMENT OF HEALTH CARE PROVIDER*, effective September 1, 2005, sets out the deadline for timely submitting the medical bills to the insurance carrier.
4. Texas Labor Code §408.0272, titled *CERTAIN EXCEPTIONS FOR UNTIMELY SUBMISSION OF CLAIM*, effective September 1, 2005, provides for exceptions for untimely submission of medical bills.
5. Division rule at 28 TAC §133.20, titled *Medical Bill Submission by Health Care Provider*, effective January 29, 2009, sets out the timeframe for healthcare providers to submit a medical bill.
6. This request for medical fee dispute resolution was received by the Division on December 20, 2010.
7. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 16 – Claim/service lacks information which is needed for adjudication.
 - 29 – The time limit for filing has expired.
 - 937 – Service(s) are denied based on HB7 provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before the 95th day after the date of service.
 - 943 – S07 – Documentation does not support billed charge. No recommendation of payment can be made.
 - 309 – The charge for this procedure exceeds the fee schedule allowance.
 - W1 – Workers Compensation State Fee Schedule adjustment.

Issues

1. Did the requestor meet the requirements of Texas Labor Code §408.027?
2. Did the requestor meet the requirements of 28 Texas Administrative Code §133.307?
3. Did the requestor meet the requirements of 28 Texas Administrative Code §134.1 providing for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline?
4. Is the requestor entitled to reimbursement?

Findings

1. The respondent denied reimbursement for the disputed services based upon reason codes "937-Service(s) are denied based on HB7 provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before the 95th day after the date of service"; and "29-The time limit for filing has expired".

Texas Labor Code §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

Texas Labor Code §408.0272(b)(1)(A-C) states "(b) Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if: (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with: (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured; (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title."

28 Texas Administrative Code §133.20(b), states "Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health

care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied. The medical bill submitted by the health care provider to the correct workers' compensation insurance carrier is subject to the billing, review, and dispute processes established by Chapter 133, including §133.307(c)(2)(A)-(H) of this title (relating to MDR of Fee Disputes), which establishes the generally acceptable standards for documentation."

The requestor submitted a copy of a bill with a creation date of June 17, 2010. This creation date is within the 95 day timeline are past the filing deadline. The Division finds that the requestor submitted documentation to support that the medical bill was submitted timely. Therefore, the dispute will be reviewed in accordance with applicable Division rules and the Statute.

2. Review of the submitted documentation supports that the requestor has met the requirements of 28 Texas Administrative Code §133.307; furthermore, the carrier denied the services using payment exception codes "16 – Claim/service lacks information which is needed for adjudication and 943 – S07 – Documentation does not support billed charge. No recommendation of payment can be made." In accordance with 28 Texas Administrative Code §133.307(c)(2)(E) the requestor submitted copies of all applicable medical records specific to the dates of service in dispute.
3. This dispute relates to services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.1, effective March 1, 2008, 33 *Texas Register* 626, which requires that, in the absence of an applicable fee guideline or a negotiated contract, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection §134.1(f) which states that "Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available."
4. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
5. 28 Texas Administrative Code §133.307(c)(2)(E), effective May 25, 2008, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008, requires that the request shall include "a copy of all applicable medical records specific to the dates of service in dispute." Review of the submitted. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(E).
6. 28 Texas Administrative Code §133.307(c)(2)(G), effective May 25, 2008, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable." Review of the submitted documentation finds that:
 - The requestor's position statement asserts that "Requestor's amount billed is fair and reasonable for the services provided to patient, [injured employee]. These reasonable charges were agreed to by the carrier, and employer and under the agreement has been paid since 1994."
 - Claim adjustment code 131 noted, in part, that the reason for reduction was due to a "Claim specific negotiated discount." No documentation was found to support that such an agreement existed between the parties in dispute, for the dates of service in dispute. For that reason, the Division concludes that these reasons are unsupported. Consequently, the services in dispute will be reviewed per applicable Division rules and fee guidelines
 - The requestor does not discuss or explain how \$487.00 per day is a fair and reasonable reimbursement for the services in this dispute.
 - In support of the requested reimbursement, the requestor submitted an explanation of benefits, from the insurance carrier for the injured employee showing payment in the full amount was made in May of 2009. However, the requestor did not discuss or explain how the sample EOB supports the requestor's position that additional payment is due. The carriers' reimbursement methodologies are not described on the EOB. Nor did the requestor explain or discuss the carriers' methodologies or how the payment amount was determined for the sample EOB.
 - The requestor did not submit documentation to support that payment of the amount sought is a fair and

reasonable rate of reimbursement for the services in this dispute.

- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services in dispute.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

June 6, 2012
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.